IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
**WRIT PETITION NO.4884 OF 2005**

Shri Shah Mohammad Shakoor ... Petitioner
V/s.
Smt. Amina Manzoor Ansari ... Respondent

Mr.G.G. Togani for Petitioner
None for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 9, 2005**

**P.C.:**

. The Petition is directed against the concurrent finding of facts by which both the Courts below have held that respondent-plaintiff has made out a case of bonafide and reasonable requirement of the suit premises and that greater hardship would be caused to the plaintiff if the decree as prayed for is not granted. Besides this ground having been established, the Petitioner has defaulted in payment of rent since 28.12.1993. The Petitioner relies on the judgment of a learned Single Judge of this Court (D.Y. Chandrachud, J.) in *Vasantrao Shankarrao Bhosle v/s. Suhas Ramchandra Apte,* **2004(2) RCJ 240** to submit that if payments of rent are made even after the date fixed by the trial Court, it cannot be held that there was no compliance with provisions of the Bombay Rent Act. The Petitioner has been unable to indicate as to what was the schedule that was fixed by trial Court for payment

of rent. The only submission made is that since the Petitioner has made the payment, there was no question of him being in default. Both the Courts have found that the Petitioner has made payments which were not in consonance with the schedule fixed by the trial Court.

2. Apart from this, the Petitioner has relied on the judgment of the Kerala High Court in the case of *Mar Appraem Kuri Co. Ltd. v/s. Dix*, **2004(2) RCJ 538** to submit that both the Courts ought to have held that there was no attornment and therefore the Petitioner is not liable to be evicted. It is also submitted that the termination of the tenancy has been effected without any notice and therefore, the judgment of the Kerala High Court in *Mar Appraem Kuri Co. Ltd. (supra)* is applicable. In my view, this judgment is not at all applicable to the facts of the present case. The orders of both the Courts below which are concurrent need not be interfered with as they have been based on the evidence recorded before the trial Court. Hence, petition is rejected.

3. Mr.Togani, appearing for the Petitioner, seeks some time to vacate the suit premises. The Appellate Court’s order is dated 8.4.2005 and hence, time to vacate the suit premises is granted upto 30.11.2005,

subject to Petitioner furnishing an undertaking in the usual terms within four weeks from today.